



House of Representatives

General Assembly

File No. 741

January Session, 2013

Substitute House Bill No. 6696

House of Representatives, May 6, 2013

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE PROSECUTION AND PREVENTION OF TRAFFICKING IN PERSONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-192a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) A person is guilty of trafficking in persons when such person
4 [commits] compels or induces another person to engage in conduct
5 involving more than one occurrence of sexual contact with one or more
6 third persons, or provide labor or services that such person has a legal
7 right to refrain from providing, by means of (1) the use of force against
8 such other person or a third person, or by the threat of use of force
9 against such other person or a third person, (2) fraud, or (3) coercion,
10 as provided in section 53a-192. [and the other person is compelled or
11 induced to (1) engage in conduct that constitutes a violation of section
12 53a-82, or (2) provide labor or services.] For the purposes of this
13 subsection, "sexual contact" has the meaning provided in section 53a-
14 65.

15 (b) Trafficking in persons is a class B felony.

16 Sec. 2. Section 53a-82 of the general statutes is repealed and the
17 following is substituted in lieu thereof (*Effective October 1, 2013*):

18 (a) A person sixteen years of age or older is guilty of prostitution
19 when such person engages or agrees or offers to engage in sexual
20 conduct with another person in return for a fee.

21 (b) In any prosecution for an offense under this section, it shall be an
22 affirmative defense that the actor was [coerced into committing such
23 offense] a victim of conduct by another person [in] that constitutes a
24 violation of section 53a-192a, as amended by this act.

25 (c) In any prosecution of a person sixteen or seventeen years of age
26 for an offense under this section, there shall be a presumption that the
27 actor was [coerced into committing such offense] a victim of conduct
28 by another person [in] that constitutes a violation of section 53a-192a,
29 as amended by this act.

30 (d) Nothing in this section shall limit a person's right to assert the
31 defense of duress pursuant to section 53a-14 in any prosecution for an
32 offense under this section.

33 ~~[(d)]~~ (e) Prostitution is a class A misdemeanor.

34 Sec. 3. Section 53a-83 of the general statutes is repealed and the
35 following is substituted in lieu thereof (*Effective October 1, 2013*):

36 (a) A person is guilty of patronizing a prostitute when: (1) Pursuant
37 to a prior understanding, he pays a fee to another person as
38 compensation for such person or a third person having engaged in
39 sexual conduct with him; or (2) he pays or agrees to pay a fee to
40 another person pursuant to an understanding that in return therefor
41 such person or a third person will engage in sexual conduct with him;
42 or (3) he solicits or requests another person to engage in sexual
43 conduct with him in return for a fee.

44 (b) [Patronizing] Except as provided in subsection (c) of this section,
45 patronizing a prostitute is a class A misdemeanor.

46 (c) Patronizing a prostitute is a class B felony if such person knew or
47 reasonably should have known at the time of the offense that such
48 other person (1) had not attained eighteen years of age, or (2) was the
49 victim of conduct of another person that would constitute trafficking in
50 persons in violation of section 53a-192a, as amended by this act.

51 Sec. 4. (NEW) (*Effective October 1, 2013*) At any time after a judgment
52 of conviction is entered pursuant to section 53a-82 of the general
53 statutes, as amended by this act, the defendant may apply to the
54 Superior Court to vacate the judgment of conviction on the basis that
55 the defendant was a victim of conduct of another person that
56 constitutes trafficking in persons under section 53a-192a of the general
57 statutes, as amended by this act, or under 18 USC 1591, at the time of
58 the offense. Prior to rendering a decision on a defendant's application
59 to vacate the judgment of conviction, the court shall afford the
60 prosecutor a reasonable opportunity to investigate the defendant's
61 claim and an opportunity to be heard to contest the defendant's
62 application. If the court finds that the defendant was a victim of
63 trafficking in persons under either of said sections at the time of the
64 offense, the court shall vacate the judgment of conviction and dismiss
65 any charges related to the offense.

66 Sec. 5. (*Effective from passage*) (a) There is established a task force to
67 study data relating to trafficking in persons offenses in this state. The
68 task force shall examine the provisions of the general statutes related
69 to trafficking in persons and identify deficiencies, if any, in the general
70 statutes. If the task force identifies deficiencies in the provisions of the
71 general statutes related to trafficking in persons, the task force shall
72 recommend amendments to the general statutes related to trafficking
73 in persons to enhance statutory protections for victims of trafficking in
74 persons.

75 (b) The task force shall consist of the following members:

- 76 (1) The speaker of the House of Representatives, or a designee;
- 77 (2) The president pro tempore of the Senate, or a designee;
- 78 (3) The minority leader of the House of Representatives, or a
79 designee;
- 80 (4) The minority leader of the Senate, or a designee;
- 81 (5) One member appointed by the speaker of the House of
82 Representatives who shall be a municipal police officer;
- 83 (6) The Commissioner of Emergency Services and Public Protection,
84 or the commissioner's designee;
- 85 (7) The Commissioner of Children and Families, or the
86 commissioner's designee;
- 87 (8) The Chief State's Attorney, or the Chief State's Attorney's
88 designee;
- 89 (9) The Victim Advocate; and
- 90 (10) Two persons appointed by the Governor with expertise in
91 issues relating to trafficking in persons in this state.
- 92 (c) All appointments to the task force shall be made not later than
93 thirty days after the effective date of this section. Any vacancy shall be
94 filled by the appointing authority.
- 95 (d) The task force shall select a chairperson from among its
96 membership. The chairperson shall schedule the first meeting of the
97 task force, which shall be held not later than sixty days after the
98 effective date of this section.
- 99 (e) The administrative staff of the joint standing committee of the
100 General Assembly having cognizance of matters relating to the
101 judiciary shall serve as administrative staff of the task force.
- 102 (f) Not later than January 1, 2014, the task force shall submit a report

103 on its findings and recommendations to the joint standing committee
104 of the General Assembly having cognizance of matters relating to the
105 judiciary, in accordance with the provisions of section 11-4a of the
106 general statutes. The task force shall terminate on the date it submits
107 such report or January 1, 2014, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	53a-192a
Sec. 2	<i>October 1, 2013</i>	53a-82
Sec. 3	<i>October 1, 2013</i>	53a-83
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>from passage</i>	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Judicial Dept.	GF - Potential Revenue Gain	See Below	See Below
Legislative Mgmt.; Various State Agencies	GF - Potential Cost	Less than 1,000	None
Correction, Dept.; Judicial Dpt (Probation)	GF - Potential Cost	See Below	See Below

Municipal Impact: None

Explanation

The bill broadens the crime of trafficking in persons and increases the prison sentence and fine associated with patronizing a prostitute under certain circumstances. On average, there are few offenses of trafficking in persons. There are approximately 150 offenses annually of patronizing a prostitute that lead to criminal penalties. The bill increases the penalty for patronizing a prostitute from a class A misdemeanor to a class B felony under specific circumstances.

To the extent that offenders are prosecuted for expanded offenses under this bill, potential costs for incarceration or probation supervision in the community, or judicial revenue would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the community as opposed to \$50,690 (including benefits) to incarcerate an offender.

The bill also establishes a task force to study data relating to trafficking in persons. There may be a cost of less than \$1,000 to agencies participating in the task force to reimburse legislators and

agency staff for mileage expenses.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation with the exception of the taskforce impact as the task force terminates by FY 14.

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis

sHB 6696

***AN ACT CONCERNING THE PROSECUTION AND PREVENTION
OF TRAFFICKING IN PERSONS.***

SUMMARY:

This bill:

1. expands the crime of trafficking in persons;
2. increases the penalty for patronizing a prostitute from a class A misdemeanor (punishable by up to one year in prison, a fine of up to \$2,000, or both) to a class B felony (punishable by up to 20 years in prison, a fine of up to \$15,000, or both) when the actor knew or should reasonably have known at the time of the offense that the prostitute was (a) under age 18 or (b) the victim of trafficking in persons;
3. allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct that amounts to a trafficking in persons crime under state or federal law at the time of the offense;
4. makes changes to defenses to a prostitution charge; and
5. creates an 11-member task force to study trafficking in persons data in Connecticut and recommend statutory changes to enhance protections for victims.

EFFECTIVE DATE: October 1, 2013, except the task force provisions are effective upon passage.

TRAFFICKING IN PERSONS

Under current law, a person commits the crime of trafficking in

persons when he or she coerces another person to compel or induce that person to engage in prostitution or provide labor or services.

The bill expands this crime in a number of ways. Under the bill, a person commits trafficking in persons when he or she:

1. compels or induces another person to (a) engage in conduct involving more than one occurrence of sexual contact with at least one third person or (b) provide labor or services the person has a legal right to refrain from providing and
2. does so through coercion; fraud; or use, or threatened use, of force against a person or a third person.

The law defines sexual contact as contact with the intimate parts of the actor or someone not married to the actor, for the actor's sexual gratification or for degrading or humiliating the victim. (It is unclear in some circumstances who the "actor" refers to in a trafficking in persons crime).

By law, trafficking in persons is a class B felony.

PROSTITUTION

Vacating Conviction

The bill allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct, at the time of the offense, that amounts to a trafficking in persons crime under state or federal law. The court must give the prosecutor a reasonable opportunity to investigate the claim and an opportunity to contest the application. If the court finds the defendant was a victim of the conduct, it must vacate the judgment and dismiss any charges related to the offense.

Defenses

By law, a person has a defense to a prostitution charge if he or she was a victim of conduct that amounts to trafficking in persons. Anyone under age 18 is presumed to be a victim of this conduct. The

bill's expansion of the trafficking in persons crime expands this defense.

The bill also specifies that someone can assert the defense of duress to a charge of prostitution. By law, duress is a defense if a person engaged in conduct because he or she was coerced by the use, or threatened imminent use, of physical force against that person or another and a person of reasonable firmness in the situation would not be able to resist. The defense of duress is not available to people who intentionally or recklessly place themselves in a situation where it is probable that they will be subjected to duress.

TASK FORCE

The bill creates an 11-member task force to study data relating to trafficking in persons in Connecticut. It must examine and identify deficiencies in the statutes and make recommendations to enhance protections for victims. The following officials or their designees serve as members:

1. House speaker and minority leader,
2. Senate president pro tempore and minority leader,
3. Emergency Services and Public Protection and Children and Families commissioners,
4. chief state's attorney, and
5. victim advocate.

In addition, the (1) House speaker appoints a municipal police officer as a member and (2) governor appoints two people with expertise in issues relating to trafficking in persons in Connecticut.

The bill requires the appointments to be made within 30 days after the bill's passage and appointing authorities fill any vacancies. The task force selects a chairperson from among its members and the chairperson must schedule and hold the first meeting within 60 days

after the bill's passage. The bill requires the Judiciary Committee's administrative staff to serve as the task force's administrative staff.

The bill requires the task force to report to the Judiciary Committee by January 1, 2014. The task force terminates the later of January 1, 2014 or when it submits the report.

BACKGROUND

Federal Trafficking Crime

Under federal law, it is a crime to (1) take certain actions related to transporting a person or (2) benefit from participating in a trafficking venture, knowing that force, fraud, or coercion will be used to cause the person to engage in a commercial sex act or that the person is under age 18 and will be required to engage in such an act.

Penalties vary depending on the conduct and victim's age, but could result in life imprisonment (18 USC § 1591).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)